

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION**

#### **JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES**

**Call to Order:** By **CHAIRMAN CHRISTINE KAUFMANN**, on January 17,  
2005 at 8:00 A.M., in Room 102 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Christine Kaufmann, Chairman (D)  
Sen. Dan Weinberg, Vice Chairman (D)  
Sen. John Cobb (R)  
Rep. Joey Jayne (D)  
Sen. Greg Lind (D)  
Rep. Penny Morgan (R)

**Members Excused:** Rep. Walter McNutt (R)

**Members Absent:** None.

**Staff Present:** Pat Gervais, Legislative Branch  
Laura Good, Committee Secretary  
Lois Steinbeck, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

The following Exhibits were submitted prior to testimony:

[EXHIBIT\(jhh12a01\)](#)

[EXHIBIT\(jhh12a02\)](#)

**CHAIR REP. CHRISTINE KAUFMANN, HD 81, HELENA,** called the meeting to order.

**Mr. Jeff Buska, Senior Medicaid Policy Analyst, Department of Public Health and Human Services (DPHHS),** offered an overview of the Medicare Modernization Act (MMA), specifically as it addresses the prescription drug discount card and Part D prescription drug benefit. President George W. Bush signed the Act into law on December 8, 2003. The law provides for Medicare improvements including the prescription drug card benefit, a Part D prescription drug benefit, increased Medicare reimbursements for hospitals and physicians, rural health services and managed care, and important changes regarding durable medical equipment services, laboratory services, ambulance, and Part B premiums and deductibles. It also replaces the Medicare Plus Choice managed care programs and Medicare Advantage, and creates Health Savings Accounts.

He directed the committee to follow his presentation using Exhibit 3, and also offered them but did not discuss Exhibit 4.

[EXHIBIT\(jhh12a03\)](#)

[EXHIBIT\(jhh12a04\)](#)

*{Tape: 1; Side: B; Approx. Time Counter: 3.5}*

**SEN. JOHN COBB, SD 9, AUGUSTA,** asked how DPHHS' budget projections reflect the Clawback and other financial issues described in today's presentation.

**Mr. John Chappuis, Deputy Director, DPHHS,** stated that DPHHS budgeted the drug caseload as if it would still be operating the program, knowing that under the Clawback, 90% would need to be turned in the first year. The remaining 10% will be used to cover the many of the currently unknown costs. **Mr. Chappuis** also touched on the woodwork effect, on which **Ms. Steinbeck** offered to give comment.

**Ms. Steinbeck** explained that many states expect the new Medicare prescription drug program to end up costing them more in Medicaid services, because low-income targeted MMA outreach will invariably also identify Medicaid-eligible individuals who are not currently enrolled.

**Ms. Steinbeck** also noted that the committee may wish to ask questions about how DPHHS will help individuals choose MMA-initiated plans.

***{Tape: 1; Side: B; Approx. Time Counter: 12.5}***

In response to a question from the committee, **Mr. Buska** stated that Federal Medicaid matching rates of 50% also apply for MMA programs.

**SEN. GREG LIND, SD 50, MISSOULA**, inquired as to the coverage of pharmaceutical contraceptives under the MMA-initiated programs.

**Mr. Buska** guessed that pharmaceutical contraceptives are covered under the MMA-initiated programs.

**SEN. LIND** asked if any cost-containment or savings plans were built in to MMA, beyond the Part D benefit.

**Mr. Buska** indicated that savings depend on prescription drug costs as negotiated by The Center for Medicare and Medicaid Services (CMS) with pharmacies and drug manufacturers.

**REP. JOEY JAYNE, HD 15, ARLEE** inquired as to the segregation of Clawback costs within the DPHHS budget.

**Ms. Steinbeck** stated that DPHHS has not segregated Clawback within the Medicaid budget. She presumed that DPHHS would pay Clawback with appropriated prescription drug monies, and also said that the committee could work with DPHHS to create language that would segregate Clawback as a line item.

***{Tape: 1; Side: B; Approx. Time Counter: 18.8}***

**REP. PENNY MORGAN, HD 57, BILLINGS**, requested information on how the MMA might affect MONA issues, including prescription drug benefits for the Developmentally Disabled (DD) under the Disability Services Division (DSD).

**Mr. Buska** replied that sponsors of Medicare-covered prescription drug plans will be required to present their proposals and formularies to CMS for approval. He also said that Medicare beneficiaries will need to pick new MMA-initiated prescription drug plans that meet their needs. To aid in this decision-making process, he noted that divisions, case managers and advocates will receive training and education.

**REP. MORGAN** inquired as to how the staff incorporated MMA proposals into Medicare and Medicaid issues covered in the Budget Analysis.

**Ms. Steinbeck** expressed that the MMA-initiated changes are more massive, significant and complex than those enacted under Welfare Reform in the 1990s. She stated that she and Ms. Gervais currently have very limited information on MMA, and had even more limited information when they wrote the Budget Analysis. **Ms. Steinbeck** reiterated that specific information about how DPHHS will conduct outreach about Part D and how it will handle the grievance and appeals process has not been fleshed out. She suggested that the committee consider establishing interim oversight of the process.

*{Tape: 1; Side: B; Approx. Time Counter: 26.8}*

**Ms. Gervais** explained to the committee that the MONA deals solely with allocation of waiver resources. Many MONA recipients receive services and benefits from a combination of government programs such as Medicare; thus, MMA impacts will be for MONA recipients as they will be for any other dually enrolled consumers.

**SEN. DAN WEINBERG, SD 2, WHITEFISH**, appealed for clarification regarding what consumers are able to choose under Part D.

*{Tape: 2; Side: A}*

**Mr. Buska** stated that under Part D, consumers choose a coordinated prescription drug plan and pharmacy benefit manager who processes claims for the individual. Responding to **SEN. WEINBERG's** follow-up question, **Mr. Buska** told the committee that these entities are not insurance companies, but managers who adjudicate claims and negotiate with pharmaceutical manufacturers for good prices.

**SEN. WEINBERG** expressed his concern that pharmacy benefit managers primarily address the needs of consumers, rather than those of any big-business conglomerate they represent.

**SEN. LIND** inquired as to whether or not Montanans would enjoy the range of choices available to citizens of states with higher populations.

**Mr. Buska** noted that Montana has regionalized with Wyoming, North Dakota, South Dakota, Idaho and Utah in order to ensure choice for consumers.

**SEN. WEINBERG** requested an overview of MMA outreach.

**Mr. Buska** stated that he and his fellow staff are on the cusp of understanding and implementing CMS-directed MMA outreach. He also said that DPHHS plans to create internal workgroups composed of agencies impacted by MMA.

**{Tape: 2; Side: A; Approx. Time Counter: 6.3}**

Responding to a follow-up question from **REP. MORGAN**, **Mr. Buska** affirmed that CMS will match state MMA implementation costs at 50%, the regular Federal Matching Percentage (FMP) rate, and that CMS will launch its own MMA public awareness campaign over the next six months.

Finally, responding to **SEN. COBB**, **Mr. Buska** told the committee that while most prescription drug discount card outreach has been done through Children's Health Insurance Plan (CHIP) and the Montana Primary Care Association, there is no data on the success of this outreach.

Following a break, **Ms. Steinbeck** recounted for the committee her conversation with a senior policy advisor for the National Association of State Legislatures, who affirmed that the MMA Clawback could be raised if Medicare is not cost-neutral to the federal government.

Next, **Ms. Joyce De Cunzo, Administrator for the Addictive and Mental Disorders Division (AMDD)** provided an overview of AMDD using Exhibit 5, Pages 1-20 as guide.

**EXHIBIT**(jhh12a05)

**{Tape: 2; Side: B; Approx. Time Counter: 14.1}**

**SEN. WEINBERG** requested further information about what kinds of disorders fell into the Division's definition of "severe and disabling."

**Ms. De Cunzo** deferred to **Ms. Lou Thompson, AMDD Bureau Chief**, who stated that brain-based disorders, including those classified as Axis 1 and Axis 2, receive consideration, and that AMDD couples a consumer's medical diagnosis with research on the ways in which mental illness may have impaired his or her socialization, work history, and ability to live independently.

**REP. MORGAN** asked if AMDD considers advanced Alzheimer's a mental illness.

**Ms. Glenda Oldenberg, Montana Mental Health Nursing Care Center (MMHNCC)**, confirmed that MMHNCC receives advanced Alzheimer's and

dementia patients who also have behavior problems and/or other mental illnesses.

**SEN. WEINBERG** asked if the state is having to turn people away, since beds at the Montana State Hospital (MSH) are full.

**Ms. De Cunzo** stated that MSH cannot turn people away.

*{Tape: 3; Side: A}*

**SEN. WEINBERG** inquired as to why MHC has maximized its facility use, while MMHNCC has empty beds.

**SEN. LIND** asked if AMDD receives funds from counties, municipalities, and, in the case of criminal patients, the Department of Corrections.

**Ms. De Cunzo** confirmed the AMDD receives funds from counties and municipalities. She also explained that current law forbids AMDD from charging criminal patients or their families, but that pending legislation would allow AMDD to change this.

*{Tape: 3; Side: A; Approx. Time Counter: 13}*

**Ms. De Cunzo** then addressed **SEN. WEINBERG's** question regarding MSH and MMHNCC, stating that service flexibility is impossible due to the fact that MMHNCC has not been able to hire a psychiatrist who would be able to give proper care to MSH transfer patients. Reasons for this staffing problem include an uncompetitive pay plan, as well as the fact that a single staff psychiatrist would be required to remain on-call for 24 hours every day.

**Ms. Julie Rider, an Registered Nurse (RN) with AMDD,** noted that two RN's could be hired to perform similar services at half the salary cost of one psychiatrist.

**Mr. Ed Amberg, Director of MSH,** expressed that another reason for a lack of service flexibility is that hospitals and nursing homes offer distinctly different levels of care.

**REP. MORGAN** asked if the Department of Corrections provides drug rehabilitation services for methamphetamine abusers.

**Ms. De Cunzo** could not offer data on this matter.

**SEN. LIND** noted that Tobacco Use Prevention programs are included in Public Health programs, not AMDD.

**Ms. De Cunzo** said that AMDD does spearhead a limited amount of its own Tobacco Use Prevention programs.

Regarding staffing difficulties at the Montana Chemical Dependency Center (MCDC), committee, division and department discussion confirmed that a major factor is the shortage in Montana of Licensed Addiction Counselors (LAC's).

**Ms. De Cunzo** discussed Page 18, MCDC Revenue Collections in State Fiscal Year (SFY) 2004 and Chemical Dependency Benefits.

**{Tape: 3; Side: B}**

**Ms. De Cunzo** went on to discuss for the committee Page 19, Chemical Dependency Medicaid Benefits, 2004 Services and Funding; and Page 20, Chemical Dependency Non-Medicaid Services.

**REP. MORGAN** requested information on Montana's Mental Health Ombudsman, which **Ms. De Cunzo** identified as a part of the Governor's Office, not AMDD.

Responding to the question from **SEN. LIND, Mr. Chappuis** and **Ms. Steinbeck** discussed the matter of vacancy savings as it relates to MCDC staffing issues and finances.

Directing the committee back to Exhibit 5, Pages 4, 7, 8, and 13, and then to Page B-205 of the Budget Analysis, **Ms. Steinbeck** guided the committee through an extended discussion of AMDD Legislative Fiscal Division (LFD) issues and related legislation.

**{Tape: 4; Side: A}**

Next, the committee received rescheduled Public Testimony from witnesses regarding the Disability Services Division (DSD) and the Independent Living programs.

**PUBLIC TESTIMONY: DISABILITY SERVICES DIVISION**

**Ms. Cris Volinkaty**, lobbyist for Developmental Disabled (DD) Children and Families, Regions 4 & 5, introduced DSD witnesses.

**Ms. Billie Miller** represented Family Outreach and the Child Development Center, two agencies serving DD children and families in regions 4 & 5. She provided a map and several graphs detailing services rendered and reimbursement received or not received, and advocated increased general fund monies for Part C Early Intervention Services.

**EXHIBIT(jhh12a06)**

**Ms. June Hermanson, Montanans with Disabilities for Equal Access**, introduced witnesses to speak on behalf of Independent Living and Extended Employment.

*{Tape: 4; Side: A; Approx. Time Counter: 18}*

**Mr. Daryl Sineath**, an individual with a mental illness, reported his excellent experiences as an Independent Living Center (ILC) consumer in Great Falls.

**Mr. Tom Osborn, Director, North Central Independent Living Services**, vouched for ILC services and programs as both a consumer and a staff member.

**Ms. Maggie Carlson, Employment Specialist, North Central Independent Living Services**, described her work with and on behalf of Vocational Rehabilitation consumers returning to work. Currently, her organization serves 127 individuals, with a waiting list of 140.

**Mr. Scott Small** and **Mr. Jeremy Walbuton** offered to the committee their positive experiences as an Extended Employment consumer and his satisfied private-sector employer.

**Ms. Toni Svalson, Owner, Red Rock Grill**, reported that one-third of her staff members are a part of the Extended Employment program. She finds Extended Employment participants to be more committed and hard working than many average job applicants.

**Mr. Charlie Briggs, Montana Association of Independent Disabilities Services (MAIDS) and the Montana Association of Rehabilitation**, introduced rehabilitation services witnesses.

*{Tape: 4; Side: A; Approx. Time Counter: 27.9}*

**Mr. Carl Schweitzer, Montana Association for the Blind**, urged the committee to support the creation of a computer specialist position to help Montana's blind community use computer-adaptive software and technology. **Mr. Schweitzer** stated that such a



position should be funded at the annual salary rate of \$65,000/year.

Following the close of testimony, **REP. JAYNE** noted that the Governor's budget included an increase in ILC funds. **REP. JAYNE** asked Mr. Chappuis if the committee would be able to leverage federal monies to pay for this increase.

**{Tape: 4; Side: B}**

**Ms. Gervais** interjected, noting that funding over the biennium actually does not include an increase, but remains stable. She also related that no additional federal funds may be leveraged for either ILCs or Extended Employment, and that any increase would have to come from general funds.

**Mr. Joe Matthews, Administrator of the Disability Services Division (DSD) of DPHHS**, confirmed that this information was correct.

**CHAIR KAUFMANN** asked **Mr. Matthews** if employers who participate in Extended Employment receive financial supports.

**Mr. Matthews** stated that such financial supports come only in the form of ancillary services, including partial payment for an individual's training. He also guessed that participating employers may receive tax credits.

**CHAIR KAUFMANN** also requested information regarding how blind people use computers.

**{Tape: 4; Side: B; Approx. Time Counter: 5}**

**Mr. Schweitzer** described for **CHAIR KAUFMANN** and the committee how blind people use listening programs like JAWS to "hear" the text of internet sites. He also explained that these programs require the use of a keyboard rather than a computer mouse.

The following Exhibits were submitted after adjournment:

[EXHIBIT\(jhh12a07\)](#)

[EXHIBIT\(jhh12a08\)](#)

[EXHIBIT\(jhh12a09\)](#)

[EXHIBIT\(jhh12a10\)](#)

**ADJOURNMENT**

Adjournment: 12:00 P.M.

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REP. CHRISTINE KAUFMANN, Chairman

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LAURA GOOD, Secretary

CK/LG

Additional Exhibits:

**EXHIBIT ([jhh12aad0.PDF](#))**